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owner, *i. e.*, the first bank, never was in possession of its property and therefore the public could not possibly foresee any claims to the orders from such a source. The effect of the decision is to give non-negotiable town warrants the characteristics of negotiable instruments. This is in accord with the comparatively modern tendency of the courts, as shown by *McNeil v. Bank*, *supra*, and *Moore v. Moore*, *supra*, to extend the doctrines of negotiable paper to certain non-negotiable things in action which business men have become accustomed to treat as negotiable, and thus to facilitate commerce. The Michigan case, however, seems to go a step farther than the other two decisions last mentioned, since it does not require any "unconditional power of disposition" to be given to estop the real owner. In this it follows more nearly the doctrine of *Moore v. Metropolitan Bank*, 55 N. Y. 41, 14 Am. Rep. 173.

CORPORATIONS—ACQUISITION OF EXEMPTION IN MERGER.—The Rochester Railroad under authority of the law of New York of 1879 leased and finally absorbed the Brighton Road. The statute provided that all the property, franchises, rights and privileges of the Brighton Road should pass "without change or diminution, as the same were before held and enjoyed." See 182 N. Y. 116. The Rochester Road claimed that a certain exemption from paving passed to it under the word "privileges" in the statute. *Held*, such exemption did not pass to the absorbing company. *Rochester Railway Company v. City of Rochester* (1907), 27 Sup. Ct. Rep. 469.

This case seems to settle the rather discordant views heretofore held, and is the result of a tendency to construe such statutes very strictly and not to imply that such exemptions pass but rather require an express statutory direction that they shall pass. *Norfolk & W. R. R. Co. v. Pendleton*, 156 U. S. 673; *Yazoo R. Co. v. Adams*, 180 U. S. 22; *R. R. Co. v. Georgia*, 98 U. S. 363; *Covington etc. Turnpike Road Co. v. Sandford*, 164 U. S. 578. The decision expressly overrules *Tennessee v. Whitworth*, 117 U. S. 139; *Humphrey v. Pegues*, 16 Wall. 244; *Gunter v. Atlantic Coast Line R. Co.*, 200 U. S. 273; *Chesapeake R. Co. v. Va.*, 94 U. S. 718; *Atlantic & Gulf R. R. Co. v. Allen*, 15 Fla. 637; *Phil., Del. & Wilmington R. R. Co. v. Md.*, 10 How. 376; *Southwestern R. R. Co. v. Ga.*, 92 U. S. 676; *Branch v. Charleston*, 92 U. S. 677; *Charleston v. Branch*, 15 Wall. 470; *Delaware R. R. Tax Cases*, 18 Wall. 206. In the above cases the word "privileges" is generally given a broader interpretation and the exemptions apply to that portion of the property to which it applied before consolidation. The restricted meaning given to the word "privileges" is found in *Chesapeake & Ohio Ry. Co. v. Miller*, 114 U. S. 176; *Picard v. East Tennessee etc. R. Co.*, 130 U. S. 637; *Phoenix Ins. Co. v. Tennessee*, 161 U. S. 174; and others cited in the opinion. These refer, among other things, to foreclosure sales and sales under trust deeds. It is generally admitted that in such cases the exemptions do not pass without specific statutory direction that they shall pass. This decision includes the case of merger as one in which the strict interpretation will also prevail. Courts, generally, hold that absorption of a corporation with an exemption never enlarges the force of that exemption so as to include

property not exempt before the merger. *Central R. R. Co. v. Georgia*, 92 U. S. 665; *Tomlinson v. Branch*, 15 Wall. 460. The doubt is over the question whether the exemption is entirely lost by absorption or not. NOYES, INTERCORPORATE RELATIONS, page 117, says: "As already indicated the purpose of acts permitting the merger of corporations is generally to vest in the absorbing company the privileges and immunities, including exemptions from taxation of the companies absorbed, and such is the *legal presumption*." *Tennessee v. Whitworth*, 117 U. S. 139; *Green County v. Conness*, 109 U. S. 104. He seems to make a distinction between merger and consolidation. "When a new corporation is created as the result of consolidation the question whether it acquires the exemptions from taxation enjoyed by its constituent companies depends upon the constitution of the state and the terms of the consolidation act." See BEACH, CORPORATIONS, Vol. 1, page 553, § 340. See, *contra*, CLARK & MARSHALL, CORPORATIONS, Vol. 2, § 341d and 341f; COOK, CORPORATIONS, Vol. 2, § 572b, Vol. 3, § 897. The courts do not find any "legal presumption" in favor of the absorbing company and require express statutory direction in both merger and consolidation before they will permit the exemption to pass. The present rule of law, then, is well described in *Yazoo etc. R. R. Co. v. Adams*: "Indeed it is not too much to say that courts are astute to seize upon evidence tending to show either that such exemptions were not originally intended or that they have become inoperative by changes in the original construction of the companies."

DEEDS—CONSTRUCTION AND OPERATION—RESERVATION AND EXCEPTION.—Testator conveyed a quarter section of land by deed which contained the following clause, "saving, excepting and reserving for himself, the grantor herein, all the timber now growing and standing on the south half of said premises, with the right at all times to enter on said premises to cut and haul the said timber away during the next forty years, but the grantor herein agrees to cut and haul away each year what is necessary for him for fire wood and other uses on the grantor's farm in the town of Dodgeville." *Held*, that this constituted an exception of all the timber on the land and that his interest passed to his heirs upon his death. *Williams et al. v. Jones* (1907), — Wis. —, 111 N. W. Rep. 505.

The majority of the court were of the opinion that the words "saving, excepting and reserving for himself, the grantor herein, all the timber now growing and standing on the south half of said premises" distinctly show the intention to make and do make an exception of such timber, and that the rest of the clause shows the intention that the right of removal be limited to forty years with the condition that the grantor undertake to remove so much of it every year as is needed for his farming purposes. Also that this condition is in no way inconsistent with the intention to make an exception, and that it does not tend to show that he reserved merely a personal right to cut and remove timber. The dissenting justice was of the opinion that from the terms used this should be construed to be a reservation of a personal right to go upon the land and cut timber for forty years, and that the provision that the "grantor cut and haul away each year what is necessary